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HUMAN RIGHTS COMMITTEE
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LISTS OF ISSUES TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION OF THE SECOND PERIODIC REPORT OF GUATEMALA (CCPR/C/GTM/99/2)

Obligation of the State party to respect and give effect to Covenant rights (arts. 2 (1) and 2 (2))

1. Please update the report in relation to progress in implementing the Firm and Lasting Peace Agreement (para. 150). In particular, explain how it is consistent with the agreement on the strengthening of civilian power and the role of the army in a democratic society that the army or military police should have been authorized:

(a) To assist the National Civil Police in its public security function (Decree 3-2000);

(b) To collaborate with civilian security forces in the fight against crime (Decree 40-2000); and

(c) To cooperate with the prison service in keeping order in prisons (Decree 87-2000).

2. What action has been taken to deal with MINUGUA's assessment in its eleventh report that, for the reasons explained in the report, there are worrying signs of a possible deterioration of the human rights situation in Guatemala? What action is being taken to counteract the climate of intimidation (1996 concluding observations, para. 30)?

3. What results, by way of giving effect to human rights, have followed the changes in the Public Prosecutor's Department (report, paras. 78-91)?

4. What action has been taken on recent detailed examples of National Civil Police Officers' responsibility for the gravest abuses of human rights, particularly extrajudicial executions and torture? What measures are being taken to strengthen the discipline and internal control of the police Office of Professional Responsibility, and generally to transform the police culture into one of service to the public and full and frank cooperation with the prosecuting authorities?

5. What steps are being taken to remove the numerous obstacles to the efficiency of the *Ministerio Público* in overcoming impunity in respect of serious violations of human rights?

6. What measures have been adopted to give effect to the announcement of President Alfonso Portillo that he will observe the recommendations relating to impunity of the *Comisión de Esclarecimiento Histórico* (CEH)? What is the result of the judicial complaint against General Fernando Romeo Lucas García, former President of the Republic, General Manuel Benedicto Lucas Garcia, former Commander-in-Chief of the Land Armed Forces, and General René Mendoza Palomo, former Minister of Defence, claiming that they were responsible for killings in numerous indigenous communities?

Right to life (art. 6)

7. What action is being taken to investigate and bring to justice the perpetrators of the 26 extrajudicial executions, and 9 attempts at this crime, reported in the period from 1 December 1999 to 30 June 2000?

8. (a) Having abolished the death penalty for women, young persons and men over 60, how is its continuing application to men between 18 and 60 justified?

(b) How is the extension of the death penalty to cases of kidnapping, which were not previously subject to this penalty, compatible with paragraphs 2 and 6 of article 6 (paras. 166, 171-173)?

9. In the light of the renewal of executions leading to the execution of two persons on 29 June 2000:

(a) Does the President continue to possess the power to pardon a person condemned to death or commute his sentence (art. 6 (4))?

(b) How can the televising of the actual execution be justified in the light of domestic law (para. 180) and article 10 of the Covenant?

(c) What remedy remains for the some 30 persons now in prison under sentence of death?

10. Please indicate the results of the work of the Office of Professional Responsibility in the police force (para. 37) and of the army high command (para. 38) in bringing to justice police and military personnel who have committed human rights violations (arts. 6, 7 and 9.1) (see 1996 concluding observations, para. 28)? What action is being taken to investigate the information given in May 2000 to the Guatemalan Procurator of Human Rights relating to 183 extrajudicial executions by members of the army (see 1996 concluding observations, paras. 26 and 28)?

11. What measures are being taken:

(a) To reduce the numbers of the prison population (65 per cent of the total - paras. 240-241) held in pre-trial detention? and

(b) To make further improvements, including further reforms, to the Code of Criminal Procedure, so as to expedite trials?

What is the longest period of detention of any person so held as of 31 December 2000 (art. 9 (3))?

12. Please provide a written up-to-date schedule of the complaints made by prisoners to the Office for the Protection of Prisoners and Due Process, with details of all rulings and the outcome of those rulings (para. 216, arts. 7 and 10).

Right to a fair hearing (art. 14)

13. How effective has the Service for the Protection of Trial Witnesses of Persons involved in the Administration of Justice been in reducing the extent of violence and threats of intimidation directed towards the judiciary, witnesses and lawyers (report, para. 287) with particular reference to proceedings which followed the murder of Bishop Gerardi?

14. What measures have been taken to strengthen the judiciary so that it is not subject to pressure from the executive or security forces and to ensure the diligent processing of criminal cases and respect for and compliance by the police with court orders (1996 concluding observations, paras. 13, 19, 31)?

15. What programmes of selection and evaluation of candidates and training have been set up by the Council on Judicial Careers; what results have been achieved? What effective and independent supervisory mechanisms are in place to deal with corruption in the judiciary?

Rights of persons belonging to minorities (art. 27)

16. What concrete measures have actually been implemented in order to combat all forms of discrimination, in particular affecting indigenous populations? Has the proposed reform concerning the teaching and the elevation to official status of indigenous languages been adopted and put into effect? Has the process of returning common lands to the indigenous populations begun? Has the crime of racial discrimination been incorporated in the Penal Code? Please furnish information concerning the participation in public service of indigenous persons, and on the level of their registration in the lists of citizens and in the electoral lists.

Gender equality (art. 3)

17. What steps have been taken by the State party to achieve equality for women in the field of higher education and in political life and the public service? What positive outcomes have been achieved in this respect?

18. How many cases have been brought before the tribunals under the Act on Prevention, Punishment and Eradication of Intra-family Violence (Decree 97-96)? How effective has this Act been in reducing the incidence of such violence (para. 118)?

Rights of the child (art. 24)

19. Please provide information on the school attendance of children, including indigenous children. How does the State party envisage combating the practice of child labour affecting children aged from 7 to 14 years? Please provide statistics on the number of children in detention.

20. What progress has been made in ensuring the protection of street children from violations of their rights, including violations by persons in authority, and what measures have been taken to bring the violators to justice (1996 concluding observations, paras. 20, 32)?

21. What effective measures have been taken to combat child prostitution and trafficking in women and children?

Participation in the conduct of public affairs (art. 25)

22. (a) What measures are being taken to encourage greater participation by citizens, including women and indigenous populations, in the electoral process?

(b) Please provide information on the extent of participation of women in the public service.

Dissemination of information relating to the Covenant

23. Please indicate the steps taken to disseminate information on the submission of this second periodic report and its consideration by the Committee, as well as on the Committee's concluding observations adopted after the consideration of Guatemala's initial report.

24. Please provide information on training and education on the Covenant procedure provided to public officials, in particular judges, police and other law enforcement officials, legal advisers and school teachers.